

Response To First Office Action Mailed: June 17, 2004
PATENT 09/773,103

RESPONSE

Remarks

Claims 1-40 are pending in the Application. Claims 1, 28, 30, 32 and 38 40 are in independent format. Applicant now responds to the Examiner's assertions.

The Applicant asks the Examiner carefully consider the comments below with an open mind. If the Examiner carefully and realistically considers the comments below with an open mind he will see that her rejections are improper, violate the holdings of many different court decisions and cannot be maintained.

Priority

The Examiner states acknowledgement is made of applicant's claim for foreign priority based on an application filed in Taiwan on 10/12/2000. The Applicant has requested and will file a certified copy of 89109172 as required by 35 U.S.C. 119(b).

Information Disclosure Statement

The Examiner asserts "it is noted that IDS form PTO-1449 was electronically filed on November 25, 2000 (as paper #10), thus there is no paper copy. Since the entire application was not filed electronically, the Examiner is requesting the applicant to re-submit paper #10 IDS PTO-1449 in order to be considered by the Examiner.

This IDS was actually filed November 25, 2003 and not 2000 as the Examiner indicated (likely a simple typing mistake by the Examiner, if not clarification is requested).

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The Applicant resubmits a copy of IDS papers filed on November 25, 2003, herewith as Exhibit A (7 total pages).

Drawings

The Examiner asserts "The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention in the claims. Therefore the "a removal display unit" in (claim 12, claim 28) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered."

FIGS. 3, 4 and 5 illustrate removable display unit at item 40. See also description on page 18, lines 1-12. Thus, the drawings do show every feature of the invention. Therefore, the Examiner should withdraw his rejection to the drawings.

Specification

The Examiner asserts that "the title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: Integrated phone-based home gateway system with a broadband communication device." The Applicants traverses this assertion by the Examiner.

However, for the sake of efficiency, the Applicant accepts the Examiner's suggestion for the title of the application and the title was amended above.

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Claim Objections

The Examiner asserts that Claim 3 is objected to under 37 C.F.R. 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 3 has been amended to now properly depend on Claim 2.

Allowable Subject Matter

The Applicant sincerely thanks the Examiner for the allowable subject matter in Claims 27, 29, and 31. Applicant has added three new independent claims, Claim 38, which includes the limitations of independent Claim 1 and dependent Claim 27, Claim 39, which includes the limitations of independent Claim 28 and dependent Claim 29 and Claim 40, which includes the limitations of independent Claims 30 and dependent Claims 31. These three new claims should be immediately allowable.

By adding these three new independent claims, the Applicant does not intend to narrow any part of the application including any of the new or the existing claims within the meaning of the holding of *Festo* or any other court decision relating to the Doctrine of Equivalents. In addition, by adding these three independent claims, the Applicant is not making any comments whatsoever on the patentability of the other pending claims in this application.

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First Section 103 Rejection

Claims 1-3, 5, 8-13, 21, 22 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edson (U.S. 6,526,581) in view of Jarett (U.S. 5,911,120).

First Section 103 Response

The Applicant traverses all of the Examiner's assertions, accepts all of the Examiner's admissions and responds as follows. The Applicant may comment on only selected specific comments by the Examiner, but the Applicant still intends to traverse all of the Examiner's assertions.

Claims 1 and 30

1. The Examiner is reminded that to establish a case of *prima facie* obviousness of a claimed invention in the first place, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974).

The Examiner is also reminded that a prior art reference must be considered in its entirety, i.e., as whole, including portions that would lead away from the claimed invention. *W.L. Gore and Associates, Inc. v. Garlock, Inc.* 721 F.2d 1540 (Fed. Cir. 1983).

The Examiner admits that Edson "does not explicitly disclose a display interface for displaying the information from the one or more networks." The Applicant accepts the Examiner's admission with respect to Edson.

The Applicant now illustrates why Edson does not teach or suggest other claim elements from the Applicant's application. The first element of Claim 1 teaches "a home gateway interface for initializing broadband communications service configurations and provisions, initializing data communications parameters and for providing routing or

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bridging for networking communications."

The Examiner asserts that Edson teaches "a home gateway interface for initializing broadband communications service configurations and provisions (see col. 10, lines 1-65; note the combined system initializes/processes/starts the broadband/DSL /CATV communications services configurations and provisions/requirements by converting between the user's data protocol (i.e. CATV video, voice or data) to the protocol that can communicate with the external network (i.e., DSL, CATV, or X-link); see col. 5, lines 45 to col. 6, lines 50)."

First, the Applicant teaches the home gateway interface "initializes broadband communications service configurations and provisions." This done automatically in the Applicant's device (e.g., via provisioning manager module 164).

One of the many problems the Applicant's invention is trying to solve is to provide a device for the home environment that does this automatic initialization and provisioning. For example, on page 3 lines 13 through page 4 line 2 of the Applicant's application, the Applicant states, "Another problem is that broadband communications are operationally complex. Broadband communications typically include a large number of broadband communications parameters that must be configured before a broadband communications application can be used. Service provisioning is also required to use broadband communications. As is known in the art, service provisioning includes allocating, configuring and maintaining multiple transmission channels and virtual communications paths used for broadband communications. Normally, in the commercial or business environment, trained professionals are required to manage such complexity. It is undesirable however, to have trained networking personnel

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managing a home network. It may also be unreasonable to expect any home user to have enough networking experience to configure and provision broadband communications in the home environment."

In direct contrast to the Applicant's invention, Edson teaches away from this element of the Applicant's claim. The gateway 13 taught by Edson does not "initialize broadband communications service configurations and provisions" as is taught by the Applicant as the Examiner asserts.

Instead Edson first teaches "From the user's perspective, if the user plugs in a new device specific interface and associated device into the power line 23 or into the in-home telephone wiring 21, the network 11 executes the necessary configuration routines and automatically enables communications for the new device." (Col. 11, lines 14-19). Thus, Edson teaches the network 11 and not the gateway 13 "initializes broadband communications service configurations and provisions." Therefore, Edson teaches away from the Applicant's invention which automatically initializes broadband communications service configurations and provisions in the gateway device.

In addition, the Examiner, by his own words admits "the combined system initializes/processes/starts the broadband/DSL/CATV communications services configurations" and not specifically the gateway 13 taught by Edson.

Second, Edson teaches "The user might open a browser on the PC 43 and access a series of web pages to configure the system 11, to obtain help, to perform diagnostics or to obtain software downloads to the PC or the gateway or the device interfaces." (Col. 11, lines 30-33). Thus, Edson teaches the user uses PC 43 to configure the network 11 which in turn communicates with the gateway 13. This again

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places a burden on the user to understand and complete complex broadband provisioning and configurations that are used by the network 11.

This teaches away and is in direct contrast to teachings of the Applicants invention which removed the need for a user to configure the network or the home gateway by providing a device that automatically initializes broadband communications service configurations and provisions them.

Finally, Edson teaches "The vendor of the network 11 may supply the gateway 13 and all of the device specific interfaces." (Col. 13, lines 1-2). Edson further teaches "The API and the matching software in the gateway 13 also provide a new level of protection against problems with new devices or device interfaces. The device-specific application provided by the vendor does not directly communicate with the gateway 13 or other device interfaces on the network 11." (Col. 13, lines 9-13).

This is also teaches away from the Applicant's Invention which provides a gateway with integrated software applications to automatically initialize broadband communications service configurations and provision them while in direct communication with the gateway.

The Applicant's invention allows communications between device-specific applications and direct communications with the gateway to allow automatic initialization and provisioning of broadband communications service configurations and provisions.

Since Edson does not teach or suggest, at least two elements of the Applicant's Claim 1, and Claim 30, by similar arguments, cannot be obvious under the holding of *In re Royka*. Thus, the Examiner has not established a *prima facie* case of obviousness

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with respect to *In re Royka*. Therefore, Claim 1 and 30 are not obvious over Edson and the 103 rejection should be withdrawn.

In addition, when the Edson reference is considered in the whole, its teachings lead away from the Applicant's invention. Edson's teachings directly lead away from the problems being solved by the Applicant's invention. Thus, Claims 1 and 30 cannot be obvious under the holdings of *W. L. Gore* either. Since the Examiner has not established a *prima facie* case of obviousness over Edson, the Applicant's invention cannot be obvious over the combination of Edson and Jarret. The Applicant therefore requests the Examiner immediately withdraw the rejections of Claims 1 and 30.

2. The Examiner is reminded that obviousness can only by combining the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347 (Fed. Cir. 1992).

The Examiner is also reminded that a prior art reference must be considered in its entirety, i.e., as whole, including portions that would lead away from the claimed invention. *W.L. Gore and Associates, Inc. v. Garlock, Inc.* 721 F.2d 1540 (Fed. Cir. 1983).

The Examiner is also reminded that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no motivation to make the proposed modification. *In Re Gordon*, 733 F.2d 900 (Fed. Cir. 1984).

Finally, the Examiner is reminded that if the proposed modification or combination of the prior art would change the principle operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti* 270 F.2d 810 (CCPA 1959).

The Examiner asserts "Edson teaches that a home gateway can be implemented with wireless internal media. Jarrett discloses a wireless communications interface for connecting to an external device and a display

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interface for displaying the information from the one or more networks. In view of this, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Edson, for the purpose of providing a home gateway system with a display and wireless connection to the wireless devices and providing the wireless devices with the capability to communicate with both the home gateway base station and cellular base station, as taught by Jarett, since Jarett states the advantages/benefits that it would reduce the cost of the hardware and software implementation to operate the cordless cellular base station."

However, Jarett actually teaches "the mobile station preferably communicates with the cordless cellular base station utilizing a digital control channel and corresponding digital traffic channels. By utilizing a digital channels, rather than analog and digital channels for communication with the mobile station, the hardware and software required to operate the cordless cellular base station is further reduced and thus the manufacturing costs are reduced. (Col. 3, lines 20-27).

Jarett further teaches "With base stations present in adjoining houses, for example, it is not desirable to enable automatic registration for all mobile station users that come into proximity with a cordless cellular base station, because it is possible for one neighbor to inadvertently automatically register with another neighbor's cellular base station. Advantageously, the automatic registration feature of the present invention allows the cordless cellular base station to restrict automatic registration to those users who have been

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previously pre-registered with a particular cordless cellular base station. By requiring pre-registration, before automatic registration occurs, accidental automatic registration with a nearby cordless cellular base station is prevented while still providing the convenience of automatic registration for frequent users. In addition, the mobile station will not attempt to automatically register with a cordless cellular base station unless it has previously registered with that cordless cellular base station and knows on which channels to look for the cordless cellular base station." (Col. 3, lines 35-54).

Jarett also teaches "In a preferred embodiment, the hardware of the cordless cellular base station 10 is very similar to the hardware used for a mobile station, however the functionality of the cordless cellular base station 16 is similar to a base station for a regional cell. The most significant differences between the cordless cellular base station and a typical base station are that the cordless cellular base station preferably has only one transceiver (permitting the use of only one set of transmit and receive frequency channels at one time) and that it supports only digital traffic. These differences permit the cordless cellular base station to be configured in a reasonable size for home use." (Col. 6, line 65 through Col. 7 line 4).

Thus, Jarett directly teaches away from the Applicant's invention which includes a phone-based home gateway system that supports and supports automatic initialization and provisioning of wireless and wired broadband and narrow band devices without pre-registration requirements for any device, supports both analog (e.g., POTS) and digital communications and supports

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more than one set of transmit and receive frequency channels at one time (e.g., DSL, ATM). In addition, the Applicant's invention was created in part to automatically initialize and provision multiple broadband communications channels including multiple virtual broadband communications channels.

Changing the wireless interface in Jarett to include all of the features disclosed by the Application would render the Jarett invention unsatisfactory for one or more of its intended purposes, namely, using only digital channels for wireless communications, permitting the use of only one set of transmit and receive frequency channels at one time, and requiring pre-registration of devices so the cellular base station and knows on which channels to look for the cordless cellular base station without interference. Thus there is no motivation to combine Jarett with Edson under the holdings of *In re Gordon*.

The Examiner also indicated by his own words that Jarett teaches a cellular base station that *reduces the cost of the hardware and software implementation to operate the cordless cellular base station*. However, the *reduced cost* asserted by the Examiner also includes *reduced functionality* described above that teaches away from the Applicant's invention. Thus, the wireless communications interface of Jarett does not teach or suggest the same wireless interface of the Applicant's invention.

Therefore the combination of Edson and Jarett does teach or suggest all of the claim limitations of the Applicant's invention.

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The Examiner further asserts "The motivation being that by utilizing the LCD to display the caller and calling party information (Jarett) at the gateway unit (Edson) it can increase the subscriber's ability to monitor the call."

However, Edson specifically teaches "physically, the gateway 13 may take a number of different forms. One version of the gateway 13 mounts between the studs, like a breaker box in a new home. Another version is a small box that stands on the floor and plugs into the power and phone lines at any convenient location with the premises" (Col. 8, line 66 to Col. 9 line 4)."

Thus, Edson specially teaches away from the Examiner's proposed motivation for combining Edson and Jarett and their combination and modification to try and obtain all of the claimed features of the Applicant's invention changes the principle operation of both Edson and Jarett. If the LCD of Jarett was added to the gateway of Edson, it would not increase the subscriber's ability to monitor the call because the gateway of Edson is either mounted in a wall between studs or placed on the floor. In either embodiment of Edson, the LCD of Jarett would not increase the subscriber ability to monitor a call unless the subscriber was physically able to view the LCD of Jarett added to the gateway of Edson between studs in a wall or by lying on the floor.

This combination is also in direct contrast to the Applicant's invention and directly teaches away from the Applicant's invention, which provides an integrated phone-based home gateway with a display interface that is placed on a table or counter for easy use and viewing of information on the display interface.

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The Examiner also asserts that "Also, the motivation being that by utilizing the wireless interface (of Jarett) at the gateway unit in order to communicate with other external devices, it can reduce the cost of extra wiring at home." There are at least two problems with the Examiner's motivations.

First, as was described above, adding the wireless interface of Jarett to Edson still does not teach the same wireless interface taught by the Applicant since the Jarett wireless interface includes permits the use of only one set of transmit and receive frequency channels supporting only digital traffic and not analog traffic and requires pre-registration of devices and an indication of what digitals channels the devices are going to use. In direct contrast, Applicant's wireless interface supports both analog and digital traffic and was created in part to automatically initialize and provision multiple sets of broadband communications channels including multiple virtual channels without any pre-registration or user configuration.

Second, even if the wireless interface of Jarett reduced the cost of extra wiring at home, it introduces limitations not found in the Applicant's invention because it supports on one set of transmit and receive channels and supports only digital traffic and pre-registration of devices.

The Applicant also has pointed several instances where the combination of Edson and Jarett, considered individually or as a whole teaches away from the Applicant's claimed invention under the holding of *W.L. Gore*. In addition, The Applicant has pointed out several instances where the combination of Edson and Jarett render the prior art invention being modified unsatisfactory for one or more

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of their intended purposes, so there is NO motivation to combine Edson and Jarett under the holding of *In Re Gordon*. Finally, since the proposed modifications of combining Edson and Jarett still do not teach all of the claim limitations of the Applicant's invention, thus the combination of Edson and Jarett are not sufficient to render the Applicant's claims *prima facie* obvious under the holding of *In Re Ratti*.

Edson or Jarett alone, or the combination thereof, does not make either Claim 1 or 30 obvious because they do not teach or suggest all the claim limitations taught by the applicant. Thus, neither Claim 1 or Claim 30 can be obvious. Therefore, the Applicant requests the Examiner immediately withdraw the rejections of Claims 1 and 30.

CLAIMS 2, 3, 5, 8-13 and 21-22

The arguments for Claims 1 and 30 are incorporated by reference. Those claims are dependent claims adding additional features to the invention. The Applicant has explained in detail why independent Claims 1 and 30 are not obvious. The Examiner is reminded that if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is not obvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Thus, Claims 2, 3, 5, 8-13 and 21-22 are not obvious under the holding of *In Re Fine*. Therefore, the Applicant requests the Examiner immediately withdraw the rejections of Claims 2, 3, 5, 8-13 and 21-22.

Second Section 103 Rejection

Claim 4 is rejected under 35 U.S.C. 103(a) as being

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unpatentable over Edson (U.S. 6,526,581) in view of Jarett (U.S. 5,911,120) and further in view of Yamamoto (U.S. 5,572,575).

Second Section 103 Response

The Applicant traverses all of the Examiner's assertions, accepts all of the Examiner's admissions and responds as follows. The Applicant may comment on only selected specific comments by the Examiner, but the Applicant still intends to traverse all of the Examiner's assertions.

The Examiner admits that neither Edson nor Jarett explicitly discloses a speaker phone. The Applicant accepts the Examiner's admission.

The arguments for Claims 1 and 30 are incorporated by reference. As was explained above, since the Applicant's invention is not obvious over Edson in view of Jarett, this dependent claim cannot be obvious over Edson in view of Jarett in view of Yamamoto. Thus, Claim 4 is not obvious under the holding of *In Re Fine*. Therefore, the Applicant requests the Examiner immediately withdraw the rejection of Claim 4.

Third Section 103 Rejection

Claims 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edson (U.S. 6,526,581) in view of Jarett (U.S. 5,911,120) and further in view of Gerszberg (6,396,531).

Third Section 103 Response

The Applicant traverses all of the Examiner's assertions, accepts all of the Examiner's admissions and responds as follows. The Applicant may comment on only selected specific comments by the Examiner, but the Applicant still intends to traverse all of the Examiner's assertions.

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The Examiner admits that neither Edson nor Jarett explicitly teaches: (1) the display interface displays and accesses voice and video messages; (2) the display interface teaches a graphical representation of a keypad; (3) the display interface displays at least one line of real-time stock quote, weather, headline news, community news, or electronic address information from the Internet; or (4) a video camera. The Applicant accepts all of the Examiner's admissions.

The arguments for Claims 1 and 30 are incorporated by reference. As was explained above, since the Applicant's invention is not obvious over Edson in view of Jarett, these dependent claims cannot be obvious over Edson in view of Jarett in view of Gerszberg. Thus, Claims 14-20 are not obvious under the holding of *In Re Fine*. Therefore, the Applicant requests the Examiner immediately withdraw the rejections of Claims 14-20.

Fourth Section 103 Rejection

Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edson (U.S. 6,526,581) in view of Jarett (U.S. 5,911,120) and further in view of Treyz (6,678,215).

Fourth Section 103 Response

The Applicant traverses all of the Examiner's assertions, accepts all of the Examiner's admissions and responds as follows. The Applicant may comment on only selected specific comments by the Examiner, but the Applicant still intends to traverse all of the Examiner's assertions.

The Examiner admits that neither Edson nor Jarett explicitly teaches: (1) a Bluetooth protocol based interface; (2) a Shared Wireless Access Protocol based

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interface; or (3) Wireless Application Protocol based interface; (4) a short-range wireless communications interface; or (5) a long-range wireless communications interface. The Applicant accepts all of the Examiner's admissions.

The arguments for Claims 1 and 30 are incorporated by reference. As was explained above, since the Applicant's invention is not obvious over Edson in view of Jarrett, these dependent claims cannot be obvious over Edson in view of Jarrett in view of Treyz. Thus, Claims 23-26 are not obvious under the holding of *In Re Fine*. Therefore, the Applicant requests the Examiner Immediately withdraw the rejections of Claims 23-26.

Fifth Section 103 Rejection

Claims 6,7 and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edson (U.S. 6,526,581).

Fifth Section 103 Response

The Applicant traverses all of the Examiner's assertions, accepts all of the Examiner's admissions and responds as follows. The Applicant may comment on only selected specific comments by the Examiner, but the Applicant still intends to traverse all of the Examiner's assertions.

The Examiner admits that Edson does not explicitly teach establishing one or more communications channels with the public network and routing or bridging tables. The Applicant accepts all of the Examiner's admissions.

The arguments for Claims 1 and 30 are incorporated by reference. As was explained above, since the Applicant's invention is not obvious over Edson these

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dependent claims cannot be obvious over Edson. Thus, Claims 6,7 are not obvious under the holding of *In Re Fine*.

In addition, with respect to Claims 32-37, as was discussed above for Claims 1 and 30, Edson does not teach or suggest "initializing broadband communications service configurations and provisions from the integrated phone-based home gateway system." In fact Edson instead teaches the network 11 executes the necessary configuration routines enables communications for the new device." (Col. 11, lines 14-19). Thus, Edson teaches the network 11 and not the gateway 13 "initializes broadband communications service configurations and provisions."

Therefore, the Applicant requests the Examiner immediately withdraw the rejections of Claims 6,7 and 32-37.

Sixth Section 103 Rejection

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable in view of Jarott (U.S. 5,911,120), further in view of Gerszberg (6,396,531) and further in view of Treyz (6,678,215).

Sixth Section 103 Response

The Applicant traverses all of the Examiner's assertions, accepts all of the Examiner's admissions and responds as follows. The Applicant may comment on only selected specific comments by the Examiner, but the Applicant still intends to traverse all of the Examiner's assertions.

The Examiner admits that: (1) Edson does not explicitly teach a display interface

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for displaying the information from one or more networks; (2) neither Edson nor Jarrett explicitly disclose the display interface that accesses voice, video and data messages, wherein the keypad is a key pad for entering alpha-numeric data or video camera for sending and receiving video data to and from the one or more networks; (3) neither Edson nor Jarrett nor Gerszberg explicitly discloses a Bluetooth module for interfacing with wireless devices using Bluetooth wireless protocol. The Applicant accepts all of the Examiner's admissions.

The arguments for Claims 1 and 30 are incorporated by reference. As was explained above, since the Applicant's invention is not obvious over Edson these dependent claims cannot be obvious over Edson in view of Jarrett in view of Gerszberg in view of Treyz. Thus, Claim 28 is not obvious under the holdings of at least *In re Royka* and *W.L. Gore*. Therefore, the Applicant requests the Examiner immediately withdraw the rejections of Claim 28.

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CONCLUSION

The prior art made of record in the Office Action but not relied upon by the Examiner is no more pertinent to Applicant's invention than the cited references for the reasons given above. The Applicant therefore submits that all of the claims in their present form are immediately allowable and requests the Examiner withdraw the §103 rejections of all the claims and pass all of the pending claims 1-40 to allowance.

Respectfully submitted.

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